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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,970	02/14/2002	Michael Helmus	01-202	9278
27774 7590 . 07/01/2004			EXAMINER	
MAYER, FO	RTKORT & WILLIA	HO, UYEN T		
251 NORTH AVENUE WEST				
2ND FLOOR			ART UNIT	PAPER NUMBER
WESTFIELD, NJ 07090			3731	

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Defice Action Summary Carminer Carm			Application No.	Applicant(s)	-/				
Claim(s) 1-44 is/are pending in the application. Signatures Sign	Office Action Summary		10/075,970	HELMUS, MICHAEL	,				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edutations or time may be available under the provisions of 3 CFR 1.136(s), in no event, however, may a reply be timely filed Edutations or time may be available under the provisions of 3 CFR 1.136(s), in no event, however, may a reply be timely filed Edutations or time may be available under the provision of the			Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edebasions of times may be available under the provisions of 37 CFR 1.35(s), in no event, however, may a reply be timely filed If the period for reply a specified above, the maximum statutory presid will apply and will be expired to reply applicated above, the maximum statutory presid will apply and will expire 31X (5) MONTHS from the material path of the reply willing the set of extended period for reply willing the set of the communication, even at timely fiscal, may reduce any commend patient term adjustment. See 37 CFR 1.704(b). Status 1) Separation of Status 2b) This action is FiNAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-41 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-42 is/are allowed. 6) Claim(s) 1-43 is/are allowed. 6) Claim(s) 1-44 is/are rejected. 7) Claim(s) 1-45 is/are allowed. 8) The specification is objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 11) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 21) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 21) Acknowledgment is made of a claim fo			(Jackie) Tan-Uyen T. Ho	3731					
THE MAILING OTHER OF THIS COMMUNICATION. Extensions of many be available under the provisions of 3 CPR 1.15(b), in no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. It has provided to make the substance of the communication of the provision of the communication of the communicatio			pears on the cover sheet with the c	correspondence address					
1)⊠ Responsive to communication(s) filed on 14 February 2002. 2a)□ This action is FINAL. 2b)⊠ This action is non-final. 3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)⊠ Claim(s) 1-4f is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5)□ Claim(s) is/are allowed. 6)☒ Claim(s) is/are allowed. 6)☒ Claim(s) are subjected to. 8)□ Claim(s) are subject to restriction and/or election requirement. Application Papers 9)□ The specification is objected to by the Examiner. 10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)□ All b)□ Some * ○□ None of: 1□ Certified copies of the priority documents have been received. 2□ Certified copies of the priority documents have been received in Application No 3□ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any								
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Application/Control Number: 10/075,970

Art Unit: 3731

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1-8, 12-15, 16-29, 33-34, 36-37, 39-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Turnlund et al. (5,629,077).

Turnlund et al. disclose a stent as claimed including a biodegrable inner material (10) and a biodegradable covering materials (28, 29), the covering material (28) is selected for their ability to reinforce the inner material (10, col. 6, line 29-51, also see 5 to col. 7 for the stent materials as claimed).

Note: The introductory statement of intended use and all other functional statements have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over the Turnlund et al.'s device which is capable of being used as claimed if one desires to do so.

Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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4. Claims 9-11, 30-32, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnlund et al. '077. Turnlund et al. do not disclose the inner

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member (10) comprising the inner materials as claimed. However, the materials of the

inner member as claimed are well known in the art. Therefore, it would have been

obvious matter of design choice to modify Turnlund et al.'s inner member by having the

inner member made from materials as claimed, since the applicant has not disclose that

having such materials solves any stated problem or is for any particular purpose and it

appears that the stent would perform equally well with either materials, metallic, ceramic

or polymer, monofilament or multifilament.

5. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is

(703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, McDermott or Shaver can be reached on 703-308-0858. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

(Jackie) Tan-Uyen T. Ho

Patent Examiner Art Unit 3731

June 26, 2004